

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jeffrey Mulinelli (S)	Team: Squad #7	CCRB Case #: 201710282	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/05/2017 12:06 AM	Location of Incident: § 87(2)(b)	Precinct: 83	18 Mo. SOL 6/5/2019	EO SOL 6/5/2019	
Date/Time CV Reported Tue, 12/05/2017 6:05 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/13/2017 12:29 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Martinez	20330	958881	083 PCT
2. POM Michael Amundsen	12780	960159	083 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Sean Kalletta	07800	963586	083 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Amundsen	Force: Police Officer Michael Amundsen used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Jonathan Martinez	Force: Police Officer Jonathan Martinez used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Michael Amundsen	Abuse: Police Officer Michael Amundsen damaged § 87(2)(b)'s property.	§ 87(2)(b)
D.POM Jonathan Martinez	Discourtesy: Police Officer Jonathan Martinez spoke discourteously to § 87(2)(b)	§ 87(2)(b)
E.POM Jonathan Martinez	Force: Police Officer Jonathan Martinez struck § 87(2)(b) with a baton.	§ 87(2)(b)
F.POM Jonathan Martinez	Force: Police Officer Jonathan Martinez used physical force against § 87(2)(b)	§ 87(2)(b)
G.POM Michael Amundsen	Abuse: Police Officer Michael Amundsen threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
H.POM Jonathan Martinez	Abuse: Police Officer Jonathan Martinez threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
I.POM Michael Amundsen	Force: Police Officer Michael Amundsen used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On December 5, 2017, Captain Hugo Dominguez of the 83rd Precinct called the Internal Affairs Bureau (IAB) on behalf of § 87(2)(b) who made allegations of police misconduct while in custody. IAB forwarded this complaint to the CCRB via log number 17-48891 on December 13, 2017.

On December 5, 2017, at approximately 12:06 a.m., PO Michael Amundsen and PO Jonathan Martinez, of the 83rd Precinct, responded to a 911 call from § 87(2)(b) reporting that her husband, § 87(2)(b) was in her home and in violation of an order of protection. When PO Amundsen placed one handcuff on § 87(2)(b)'s left wrist, a physical struggle ensued. PO Amundsen and PO Martinez allegedly wrestled § 87(2)(b) around the living room by grabbing and pulling on his body (**Allegations A and B: Force, § 87(2)(g)**). PO Amundsen allegedly pushed § 87(2)(b) against his TV, causing damage to it (**Allegation C: Abuse of Authority, § 87(2)(g)**). PO Amundsen and PO Martinez then allegedly used a forcible takedown against § 87(2)(b) (**also Allegations A and B: Force, § 87(2)(g)**).

Once on the ground, PO Martinez allegedly told § 87(2)(b) “Put your hands behind your fucking back,” and, “Shut the fuck up” (**Allegation D: Discourtesy, § 87(2)(g)**). PO Martinez struck § 87(2)(b) with a baton and punched him (**Allegations E and F: Force, § 87(2)(g)**). PO Amundsen then pointed his Taser at § 87(2)(b) (**Allegation G: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) was handcuffed and escorted out of the apartment, at which time PO Martinez allegedly threatened to throw him on the stairs (**Allegation H: Abuse of Authority, § 87(2)(g)**). He was then placed into an RMP by PO Amundsen, who allegedly grabbed § 87(2)(b)'s handcuffs and pulled his arms upward, causing pain (**Allegation I: Force, § 87(2)(g)**). § 87(2)(b) reported that her roommate, who she knew only as § 87(2)(b) may have been downstairs to witness § 87(2)(b) being placed into an RMP.

§ 87(2)(b) was arrested and charged with § 87(2)(b). The arrest was assigned to PO Sean Kalletta of the 83rd Precinct.

§ 87(2)(b) did not record any part of this incident. Given that the incident occurred within her apartment, there was no surveillance footage available.

Findings and Recommendations

Allegation A – Force: Police Officer Michael Amundsen used physical force against § 87(2)(b)

Allegation B – Force: Police Officer Jonathan Martinez used physical force against § 87(2)(b)

Allegation C – Abuse of Authority: Police Officer Michael Amundsen damaged § 87(2)(b)'s property.

§ 87(2)(b) testified that he was seated on the living room couch and speaking with the officers when PO Amundsen placed a handcuff on his left wrist. § 87(2)(b) stood up of his own volition. He was not instructed to sit down. PO Amundsen did not reach for § 87(2)(b)'s free hand, nor did § 87(2)(b) prevent him from doing so. Rather, PO Amundsen and PO Martinez began wrestling

§ 87(2)(b) around the living room by grabbing and yanking on him. PO Amundsen pulled § 87(2)(b) by the handcuff on his left arm. § 87(2)(b) was unable to describe PO Martinez's actions at this time, stating only that he was aware that PO Martinez was assisting his partner.

§ 87(2)(b) reported that PO Amundsen shoved him against his TV during the struggle. However, he was unable to describe this further. § 87(2)(b) considered the action, which caused the screen of his 40" LCD TV to crack, to be intentional. The TV, which § 87(2)(b) purchased approximately one year prior to the incident, was not previously damaged in any way. He has not since repaired or replaced the TV. After pushing § 87(2)(b) against the TV, PO Amundsen and PO Martinez initiated a forcible takedown by holding his arms and shoving him toward the ground. He landed face down [01 Board Review].

§ 87(2)(b) submitted two photos of his TV. These photos showed large dents and cracks to the edges of the screen [02 Board Review].

§ 87(2)(b)'s wife, § 87(2)(b) testified that she had a valid order of protection against § 87(2)(b) who was living at her residence at the time of the incident. Following an argument, she called 911 because she wanted him to leave. § 87(2)(b) let PO Amundsen and PO Martinez into the apartment when they arrived. Both the officers and § 87(2)(b) raised their voices as they discussed the validity of the order of protection.

According to § 87(2)(b) PO Martinez instructed § 87(2)(b) to stand up from the couch. When § 87(2)(b) did so, PO Amundsen handcuffed him. § 87(2)(b) was unable to see whether both handcuffs were placed on § 87(2)(b) because his body was blocking her view as she stood near the bedroom door, which was just off the living room. As § 87(2)(b) complained of pain from the handcuffs, PO Martinez pushed him against a wall. A struggle ensued, and § 87(2)(b) PO Amundsen, and PO Martinez collided with the TV. The physical contact caused the television's screen to crack in the upper left corner. § 87(2)(b) was moving around but was not trying to get away or pull his arms free. He did not push either officer. The officers then grabbed § 87(2)(b) by his arms and shoved him forward and toward the ground, causing him to land face down [03 Board Review].

PO Amundsen and PO Martinez both testified that § 87(2)(b) informed them that she had a full stay-away order of protection against § 87(2)(b) and that PO Martinez used his Department-issued cell phone to confirm this. Both officers testified that although § 87(2)(b) was informed that he was under arrest for violating the order of protection, he refused to leave the scene with them.

PO Amundsen testified that PO Martinez handcuffed § 87(2)(b)'s left wrist, after which § 87(2)(b) stood up and pulled his arm away. PO Martinez maintained hold of § 87(2)(b)'s left arm. PO Amundsen grabbed § 87(2)(b)'s right arm, at which point § 87(2)(b) pushed him off. PO Amundsen did not recall whether § 87(2)(b) pushed him by throwing his bodyweight or by using his arm to shove him away. Regardless, the push caused PO Amundsen to fall backwards into the TV stand. § 87(2)(b) fell against PO Amundsen, and he was followed by PO Martinez, who fell against § 87(2)(b). All three men remained standing. This sequence of events caused the TV's screen to break. PO Amundsen denied intentionally causing any damage to the TV.

PO Amundsen stated that he used a hold, which he referred to as a “chicken wing,” taught in the Academy to regain control of § 87(2)(b). He hooked his arm under § 87(2)(b)’s armpit and then used both arms to put downward pressure on § 87(2)(b)’s back and push him to the ground. PO Martinez also put pressure on § 87(2)(b)’s back to bring him to the ground, but PO Amundsen did not see exactly how PO Martinez was positioned. § 87(2)(b) landed chest down on the ground [04 Board Review].

PO Martinez’s testimony was generally consistent with PO Amundsen’s. He stated that he handcuffed § 87(2)(b)’s left arm, at which time § 87(2)(b) stood up and moved away from PO Martinez. PO Amundsen tried to grab § 87(2)(b)’s right arm, but § 87(2)(b) pushed him backward. PO Martinez did not see exactly how § 87(2)(b) pushed PO Amundsen, but he observed PO Amundsen fall backward into the TV. PO Amundsen landed in a seated position against the TV stand. He did not know whether this contact damaged the TV, though he noticed damage to the TV before he left the apartment. PO Martinez then pushed § 87(2)(b) against the wall. He did not know if § 87(2)(b) made contact with the TV at this point. While § 87(2)(b) was against the wall, PO Martinez grabbed his left arm, tripped him, and pulled his arm down to the ground. He was unsure whether PO Amundsen participated in the takedown. § 87(2)(b) was not sure how § 87(2)(b) landed [05 Board Review].

PO Amundsen and PO Martinez reported that they were injured during the struggle with § 87(2)(b). PO Amundsen testified that he strained muscles in his back and left shoulder, and that he completed three to four weeks of physical therapy. He was out of work with this line of duty injury until January 3, 2018. PO Martinez reported that he sustained a laceration to the middle knuckle on his right hand and a muscle strain in his right shoulder. He missed two days of work due to this line of duty injury [04-05 Board Review].

AIDED Reports for both officers were prepared by PO Martinez. PO Martinez’s AIDED Report detailed injuries consistent with his CCRB testimony. The AIDED Report for PO Amundsen noted that he sustained injuries to his left shoulder and left wrist but made no mention of a back injury [14 Board Review]. Line of Duty Injury Reports were unavailable through IAB [06 Board Review].

TRI reports prepared by PO Amundsen and PO Martinez consistently reported that § 87(2)(b) resisted and used force against the officers, specifically by pushing and shoving. PO Martinez’s TRI report noted that § 87(2)(b) used a hand strike against an officer, but in his CCRB interview PO Martinez revealed that this was a typographical error and had not occurred. Both reports acknowledged the use of a forcible takedown against § 87(2)(b) [07 Board Review].

§ 87(2)(g)
§ 87(2)(b) s arrest report reflected that he was charged with § 87(2)(b) [15 Board Review].

It is undisputed that force was used against § 87(2)(b) and that his TV was damaged during the course of the struggle. § 87(2)(g)

§ 87(2)(g)

[REDACTED]

Allegation D – Discourtesy: Police Officer Jonathan Martinez spoke discourteously to

§ 87(2)(b)

§ 87(2)(b) testified that he was taken to the ground by the officers, after which PO Martinez told him, “Put your arms behind your fucking back.” § 87(2)(b) reported that he had already his arms extended behind his back, and that he verbally informed the officers of this. PO Martinez allegedly responded, “Shut the fuck up” [01 Board Review].

In her sworn statement, § 87(2)(b) reported that § 87(2)(b) complained of pain to his arm while on the ground. PO Martinez then told § 87(2)(b) “Put your hand on the ground,” and § 87(2)(b) replied that his hand was already on the ground. PO Martinez repeated this command verbatim a short time later. In her sworn statement, § 87(2)(b) made no mention of any officer using the word “fuck” at any point. However, during a follow-up call, § 87(2)(b) was asked whether any officer used profanity toward § 87(2)(b). She then stated that PO Martinez told § 87(2)(b) to “shut up” and “shut the fuck up” at unspecified times [03 Board Review].

PO Martinez and PO Amundsen acknowledged struggling to handcuff § 87(2)(b) after taking him to the ground. However, both officers denied making the alleged statements, using the word “fuck” at any point, or hearing any other officer do so [04-05 Board Review].

§ 87(2)(g)

[REDACTED]

Allegation E – Force: Police Officer Jonathan Martinez struck § 87(2)(b) with a baton.

Allegation F – Force: Police Officer Jonathan Martinez used physical force against § 87(2)(b)

Allegation G – Abuse of Authority: Police Officer Michael Amundsen threatened § 87(2)(b) with the use of force.

§ 87(2)(b) testified that he did not remember moving after landing on his stomach as a result of the takedown. As he lay on his stomach, he extended his arms behind his buttocks so that the officers could handcuff him. PO Martinez struck § 87(2)(b) on the left side of his lower back with a baton one to two times. These baton strikes immediately followed the above-described discourteous statements. PO Martinez continued telling § 87(2)(b) to place his arms behind his back. § 87(2)(b) denied physically resisting during the handcuffing process, though he was screaming for help. The strikes did not cause bruising or any other injuries. § 87(2)(b) made no mention of any officer pointing a Taser at him [01 Board Review].

§ 87(2)(b) stated that she observed PO Martinez take out an expandable stick – it did not appear to be fully extended – and strike § 87(2)(b) twice with it on his hand that was behind his back. While striking § 87(2)(b) PO Martinez directed § 87(2)(b) to put his hands on the ground. § 87(2)(b) replied that his hand was already on the ground. § 87(2)(b) observed that one of § 87(2)(b)'s arms was behind his back while the other was by his side and on the ground. After PO Martinez commanded § 87(2)(b) to place his hands on the ground, PO Amundsen pointed his Taser toward § 87(2)(b). The Taser was never used. § 87(2)(b) estimated that the struggle on the ground lasted 30 to 60 seconds before § 87(2)(b) was handcuffed [03 Board Review].

PO Martinez testified that § 87(2)(b) landed on his stomach but had his right arm on the seat of the couch following the takedown. § 87(2)(b) used his right arm to pull his body up in an apparent effort to stand back up. PO Martinez grabbed § 87(2)(b)'s right arm but was unsuccessful in his attempt to remove it from the couch and place it behind his back. As he radioed for backup, PO Martinez noticed that § 87(2)(b) was making progress lifting himself from the floor. PO Martinez then used his baton to strike § 87(2)(b) once on his right forearm. § 87(2)(b) did not respond and kept his right arm on the couch. PO Martinez struck him a second time with the baton, and he may have struck him with it a third time as well, though he did not recall. PO Martinez denied striking § 87(2)(b) with the baton in any location aside from his right forearm. PO Martinez chose to use his baton because of the size discrepancy between himself and § 87(2)(b). § 87(2)(b) is 6'4" tall and weighs 250 pounds, while PO Martinez is 5'10" tall and weighs 210 pounds. After the final baton strike, PO Martinez punched § 87(2)(b) with a closed first once on the right side of his torso. The aforementioned strikes did not appear to have any effect on § 87(2)(b). As these events were unfolding, PO Amundsen was ordering § 87(2)(b) to give up his hands and trying to pull § 87(2)(b)'s left arm behind his back, but was unsuccessful.

According to PO Martinez, PO Amundsen pointed his Taser at § 87(2)(b) after PO Martinez's strikes were unsuccessful in gaining § 87(2)(b)'s compliance. PO Amundsen warned § 87(2)(b) "You're going to get tased." § 87(2)(b) replied, "What?" and PO Amundsen repeated the

warning. § 87(2)(b) then moved his right arm to the floor, and PO Martinez was able to pull § 87(2)(b)'s arms behind his back and handcuff him [05 Board Review].

Like PO Martinez, PO Amundsen testified that § 87(2)(b) used his right arm to push off of the couch in an attempt to stand up. He added that § 87(2)(b) pulled both of his arms away from the officers. The officers each attempted to pull one of § 87(2)(b)'s arms behind his back, but they were unable to do so. PO Amundsen noted that § 87(2)(b) is significantly larger than he or PO Martinez. When it became evident that PO Martinez was unable to pull § 87(2)(b)'s right arm behind his back, PO Martinez utilized his asp and struck § 87(2)(b)'s arm. PO Amundsen only witnessed one asp strike and did not know whether more followed. This strike had no effect on § 87(2)(b) as he continued to pull himself up with his right arm while resisting PO Amundsen with his left arm. Because the asp strike had been unsuccessful, PO Amundsen pointed his Taser at § 87(2)(b)'s back and warned him that he would utilize the Taser if he did not comply. § 87(2)(b) immediately complied by allowing PO Martinez to handcuff him [04 Board Review].

As noted above, the TRIs revealed that § 87(2)(b) resisted the officers. PO Martinez's TRI documented that he used a hand strike and a baton strike against § 87(2)(b) [07 Board Review].

In reporting this incident, Captain Dominguez revealed that he had interviewed PO Martinez, who acknowledged striking § 87(2)(b) on his abdomen with his baton [13 Board Review, see IAs].

§ 87(2)(g)
[REDACTED]

Allegation H – Force: Police Officer Jonathan Martinez threatened § 87(2)(b) with the use of force.

§ 87(2)(b) testified that § 87(2)(b) was removed from the apartment by PO Martinez, PO Amundsen, and two other officers. § 87(2)(b) requested his phone but never refused to leave the apartment. § 87(2)(b) who remained in the living room, heard PO Martinez say, “If you don’t go down, we’re going to throw you on the stairs” [03 Board Review].

§ 87(2)(b) made no mention of this threat of force [01 Board Review].

PO Martinez acknowledged that he and PO Amundsen escorted § 87(2)(b) down the stairs and transferred him to additional officers on the street level. He stated that § 87(2)(b) was irate and argued that the incident was “bullshit,” but he denied that § 87(2)(b) was physically uncooperative. He denied telling § 87(2)(b) that he would throw him on the stairs or down the

stairs. Further, he denied threatening to use force against § 87(2)(b) or hearing any other officer do so [05, 08 Board Review].

PO Amundsen made no mention of any resistance offered by § 87(2)(b) at this time or of any threat of force made by an officer [04 Board Review].

§ 87(2)(g)
[REDACTED]

Allegation I – Force: Police Officer Michael Amundsen used physical force against § 87(2)(b)

§ 87(2)(b) reported that he was placed into an RMP by PO Amundsen, who then shut the door with § 87(2)(b) seated sideways in the rear seat. PO Amundsen then walked around to the other side of the vehicle, opened the rear door, grabbed § 87(2)(b)'s handcuffs, and pulled his arms in an upward direction, causing pain. PO Amundsen closed the door a short time later, and § 87(2)(b) was transported to the stationhouse [01 Board Review].

§ 87(2)(b) did not go downstairs with § 87(2)(b) and the officers and therefore did not witness the alleged misconduct. She stated that their former roommate, who she knew only as § 87(2)(b) may have been downstairs and could have witnessed the incident. § 87(2)(b) provided a phone number for § 87(2)(b) but stated that she may have moved to Thailand. Attempts were made to contact § 87(2)(b) but the investigation was unable to reach her [03 Board Review, see IAs].

PO Amundsen testified that § 87(2)(b) was yelling and cursing while being placed into the RMP, though he had no issue placing § 87(2)(b) inside. He closed the door immediately afterward and neither he nor PO Martinez reentered the backseat. Neither officer grabbed or pulled § 87(2)(b)'s handcuffs [04 Board Review].

PO Martinez denied that § 87(2)(b) was placed into his RMP. He did not know who placed § 87(2)(b) into an RMP, and did not know of § 87(2)(b) resisting during this process. He stated that no officer pulled § 87(2)(b)'s handcuffs or arms in an upward direction while he was inside the RMP or at any other point [05 Board Review].

§ 87(2)(g)
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) or § 87(2)(b) has been a party [10 Board Review].
- PO Amundsen has been a member of service for two years and has been a subject in one prior CCRB complaint and one allegation, which is pending investigation. § 87(2)(g)
§ 87(2)(g)
- PO Martinez has been a member of the service for two years and has been a subject in two prior complaints and four other allegations, none of which were substantiated. § 87(2)(g)
§ 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation due to § 87(2)(b)'s arrest.
- As of March 2, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard this to complaint [Board Review 11].
- § 87(2)(b) § 87(2)(c)
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§ 87(2)(b) § 87(2)(c)
- § 87(2)(b) § 87(2)(c)
§ 87(2)(b) § 87(2)(c)

Squad No.: 7

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date